

The CASE of Their Majesties Subjects IN THE PRINCIPALITY of WALES.

In Respect of the COURT held before the

President and Council in the Marches of Wales:

With their GRIEVANCES, and REASONS for taking away the said COURT.



THE Kings of England, having anciently given unto divers Lords, and great Men, large Territories in *W A L E S*, constituted them Lordships-Marchers, with separate Jurisdictions; which occasioned several Murthers, Robberies, and other Outrages; and the Offenders escape Punishment, by flying from one Lordship-Marcher into another, where the King's Writ did not run: Therefore the Court of the Marches of *Wales* was erected to preserve the publick peace, and for that end, to have a general Jurisdiction over the Principality of *Wales*, and all the Lordships-Marchers in Criminal Causes; but never held any Pleas in any Civil Actions, until after the Erecting the Court of *Star-Chamber*. The first Commission and Power granted to that Court to hear and determine Civil Actions, was in the Reign of *Hen. 8.* And the Constituting Clause in the Statute of the 34. and 35. of *Hen. 8.* relates only to the *Star-Chamber* Jurisdiction.

The Lordships-Marchers (being found inconvenient) by an Act made 27 *Hen. 8.* were made new *Welsh* Counties, and the Court of the great Sessions Erected, which still continues; And lest *Wales* should not acquiesce under such Constitution, the Court before the President and Council of the Marches was continued, in the Nature of the Court of *Star-Chamber* only.

The Statute of 16 *Car. 1.* which took away the *Star-Chamber*, doth also take away this Court, and the Lord Presidents Court in the North; And declares that the King and Council have no Jurisdiction by English-Bill, or otherwise, to determine Civil Causes: But that the same ought to be determined in the Courts of Justice, by the Ordinary Course of Law.

Reasons for the taking away the COURT.

I. It is a great and constant Annual Charge to the Crown, and is of no Advantage to it, but an intollerable Grievance to the Subject: All Causes Tried there one year with another, amount not in Value, by common computation, to above 400 *l.* tho the Expence to the Subjects is at least 30000 *l.* per Annum; most of the Actions brought there, being for Trespasses, Assaults, and other trivial Actions, where the Damages are generally 4 *d.* or 6 *d.* and seldom exceed Ten Shillings.

II. It is useles, the Reasons for Erecting and continuing it Ceasing: It is not concerned in the preserving of the Publick Peace, That being done by the Judges of the great Sessions, and Justices of the Peace, as in all English Counties.

III. The Lands and Possessions of the Prince of *Wales* are long since sold, and all the Revenue arising from *Wales*, is now yearly paid to the Receiver for *Wales*, and Answer'd into the Exchequer at *Westminster*, which was provided for by the Statute 27 *Hen. 8.*

IV. The Court of the Great Sessions held twice every year, and kept for Six Days in every County, hath in its Courts of Common Law and Equity, and all Matters of Law are there Tried by Jury, and the Expence there in Tryals is much less, and Causes sooner determined, if prosecuted, than in the Court of the Marches of *Wales*; for a Suit in Equity may be brought to a hearing in one Circuit, the Court of Equity going through all the Circuit, which lasts for Three Weeks; and all the Actions under 40 *s.* and other trivial Actions, ought to be Tried in the County Court, and Court Baron, where the Costs never exceeds 4 *s.* as in *England*.

The GRIEVANCES.

I. The Constitution of that Court is against Law, their Proceedings and Decrees being Arbitrary; Damages in Causes, wherein Damages are uncertain, assessed by the Judges without Jury, contrary to the great Charter, the Laws and Birthright of the Subject; from which Decree there lies no Appeal, and yet the Subject cannot Plead the Decree of that Court in Barr to a Suit brought in another Court for the same Matter; whereby all Suits and Determinations in that Court become ineffectual.

II. This Court, to encourage Suits, gives the Plaintiff on the least colour of Suit his full Costs, and holds Plea of Debt under 40 *s.* and therein, and in Trespasses, Assaults, and Slander, &c. where the Damages are but 6 *d.* there is usually 5 *l.* Costs, and sometimes 9 *l.* or 10 *l.* Costs, given to the Plaintiff; and the Defendant, tho put to greater Expence, and the Suit appear vexatious, is dismissed without Costs.

III. That tho 6 *s.* 8 *d.* for the delay in having a *Dedimus* to take Defendants first Answer, was once taken away, yet the same is still exacted by some Clerks; and for a second *Dedimus* they constantly exact of the Defendants 10 *s.* and double the Sum for every other *Dedimus*; and scandalous Persons are permitted to practise there, and the Court grants them Protections from being impleaded in other Courts; and also grant Injunctions for stay of Proceedings in the Courts of *Westminster*, and Great Sessions, and the inferiour Courts; and punish the Disobedience to such Illegal Injunctions, by Imprisonment and otherwise.

IV. That Prohibitions usually granted in the Courts at *Westminster* to stay Proceedings in the said Court of the Marches, have of late (to advance Arbitrary Power) been denied in any Action whatsoever, tho Damages be uncertain, which Practice is maintained by a general Contribution of all the Clerks there.

V. That before *Subpoena*, which is the Original Process or Summons in that Court, the Court grants a binding Process, in nature of an Attachment in *Chancery*; and the Parties taken thereupon, and upon other Process of Contempt, give Sureties, who are not only obliged to the person's appearance, but also to pay the Debt; and the Party in Contempt is obliged to appear in person, and then being committed to Custody, he is usually charged at the Suit of other persons; and his Sureties are equally obliged to answer such subsequent Charge.

VI. Process of Contempt ought to be directed to the Sheriff; but this Court, till of late, directed them to their own Curfitors only: and when of late they have directed to the Sheriffs and Curfitors, they are always executed by the Curfitors only, whereby the Poor are much oppressed, and pay intollerable Compositions. And if any of their Curfitors, who are generally lewd persons, make any Affidavit of any Abuse in serving of Process, a Serjeant at Arms is immediately thereupon sent, and the Party, before he be heard, must pay the Serjeant's Fees, and what the Court thinks fit, or sent to Prison, tho the Oath be never so much falsified.

VII. Witnesses in Causes wherein Damages are uncertain, are examined by Commissions, and that executed by one Commissioner, and he generally a Solicitor in the Court named by the Plaintiff; and the Clerks commonly appoint one another Commissioners, whereby Perjuries and Frauds are encouraged.

VIII. It is no Court of Record, and their Proceedings are in *English*, and Paper, (which is against Law); and they cannot try any Error in Fact, having no power to summon a Jury.

IX. If any Action be brought for false Imprisonment, for executing any Process issued out of this Court, the Defendant must be at 8 *l.* or 10 *l.* Charge to plead to it, so that he must plead the Statute and Instructions.

That the Courts of Equity in the Great Sessions in each County can quiet Possessions: Yet this Court doth not only quiet, but alter Possessions; and upon filing a Bill without any Process served, gives Possession where none was before. As thus: If the Plaintiff, tho he was never in Possession, swears, or gets another to swear for him, that He, or those under whom he claims, have for three years last been in Possession, the Court orders the Possession to such person from the person that is in actual Possession, tho at the Hearing it often appears that such Plaintiff hath no Title; and Trial of any Title there is contrary to the Constitution of that Court.

XI. The Inhabitants of *Wales* are subject to the Jurisdiction of the Courts of *Westminster* Great Sessions, and this Unnecessary and Arbitrary Court; and this Court hath been Presented for a Grievance by most of the Grand-Juries in the several Counties of *Wales*; and both now and other times the Members of Parliament for *Wales* have been charged by those that chose them, to represent it as a Grievance to the Parliament; and accordingly a Bill for taking it away hath passed the House of Commons in King Charles the Second's time, but the Parliament was prorogued before it could proceed further, and then all Expedients for reforming the Abuses of the Court were examined, and found to be ineffectual. And the King's Subjects in *Wales*, by keeping up this Court, are debarred the benefit of the Statute of Union, 27 *H. 8.* which declares, That the Subject in *Wales* shall enjoy all the Freedoms, Liberties, Rights, Privileges, and Laws of *England*; and that the Laws and Statutes of *England*, and no other, shall be used and exercised in *Wales*.

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